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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

LAWRENCE JAMES SACCATO,

Plaintiff Pro Se,

Case No. 6:10-cv-06244-HO

v.

DAVIS LAW FIRM,

Defendant,

DEFENDANT U.S. BANK'S OPPOSITION
TO PLAINTIFF'S "AMENDED
MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT"

U.S. BANK NATIONAL ASSOCIATION

N.D., Co-Defendant.

DOES 1 THROUGH 10.

U.S. Bank National Association ND (U.S. Bank) recently filed an Opposition¹ to plaintiff's three pending motions for summary judgment.² Plaintiff has now filed an "Amended Memorandum in Support of Motion for Summary Judgment." It is not clear whether plaintiff intends this to be yet another motion for summary judgment or simply adding to the arguments of his prior three. Regardless, this latest filing warrants only a brief comment beyond what U.S.

¹ Dkt. No. 81.

² Dkt. Nos. 58, 63, and 74.

Bank has already presented in its previous briefing.

Plaintiff contends that it does not matter if his sole complaint about his credit report – that he did not have a U.S. Bank account that appeared on it – is meritless. According to him, “[t]his case is not about whether or not the Plaintiff had an account or any alleged amounts that may have been due.” (Pl.’s Am. Memo in Supp. at 18.) In other words, even if Plaintiff’s credit report accurately reported his U.S. Bank credit card accounts, he still contends that he has a viable FCRA claim. Plaintiff is mistaken. As discussed in prior briefing, a threshold requirement for a FCRA claim is an inaccurate credit report. Since Plaintiff cannot prove that and contends the accuracy of his credit report is irrelevant, there should be no question that U.S. Bank is now entitled to judgment as a matter of law.³

For these reasons, and those discussed in prior briefing, defendant U.S. Bank respectfully requests that this Court deny all three of plaintiff’s motions for summary judgment.

Dated: December 14, 2011.

LARKINS VACURA LLP

/s/ Christopher J. Kayser

Christopher J. Kayser, OSB #984244

Joseph D. Mueller, OSB #111780

Attorneys for U.S. Bank National Association

³ More than once in his brief, plaintiff refers to “Cavalry” as the defendant (*see* Pl.’s Am. Memo in Supp. at 6, 8), which strongly suggests Mr. Saccato simply lifted arguments from other litigation. This perhaps explains, in part, why none of the arguments made in this latest filing pertain to the case at hand.

CERTIFICATE OF SERVICE

I am over the age of 18 and am not a party to the within action. I am employed in Multnomah County, State of Oregon, and my business address is 621 SW Morrison St., Suite 1450, Portland, Oregon 97205.

On December 14, 2011, I served the following document(s):

DEFENDANT U.S. BANK'S OPPOSITION TO PLAINTIFF'S "AMENDED MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT"

on the party or parties listed on the following page(s) in the following manner(s):

☐ **BY HAND DELIVERY:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by messenger to the street address(es) indicated on the attached service list.

☐ **BY FEDERAL EXPRESS:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address(es) indicated on the attached service list.

☒ **BY FIRST-CLASS MAIL:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.

☐ **BY FACSIMILE:** For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.

☐ **BY E-MAIL:** For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list. If this action is pending in Oregon state court, then I received confirmation that the e-mail was received.

☐ **BY ECF:** For each party, I caused a copy of the document(s) to be sent by electronic mail via ECF to the e-mail address(es) indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

/s/ Christopher J. Kayser

Christopher J. Kayser

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